

## **IC 30-4-5**

### **Chapter 5. Rules Governing the Administration of a Trust**

#### **IC 30-4-5-0.5**

##### **Application of Uniform Principal and Income Act**

Sec. 0.5. The Uniform Principal and Income Act (IC 30-2-14) applies to the administration of a trust under this article.

*As added by P.L.84-2002, SEC.4.*

#### **IC 30-4-5-1a**

##### **Duty of trustee as to receipts and expenditures**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 1. (Duty of Trustee as to Receipts and Expenditures)

(a) A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:

(1) in accordance with the terms of the trust instrument, notwithstanding contrary provisions of this article;

(2) in the absence of any contrary terms of the trust instrument, in accordance with the provisions of this article; or

(3) if neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of their own affairs.

(b) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to the provisions of this article.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

#### **IC 30-4-5-1b**

##### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

#### **IC 30-4-5-2a**

##### **Income; principal**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 2. (a) Except as otherwise stated in a trust agreement, income is the return in money or property derived from the use of principal, including, but not limited to, return received as:

- (1) rent on real or personal property, including sums received for cancellation or renewal of a lease;
- (2) interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in section 5 of this chapter, on bond premium and bond discount;
- (3) corporate distributions as provided in section 4 of this chapter;
- (4) accrued increases on bonds or other obligations issued at discount as provided in section 5 of this chapter;
- (5) receipts from business and farming operations as provided in sections 6 and 7 of this chapter;
- (6) receipts from disposition of natural resources as provided in sections 8 and 9 of this chapter; and
- (7) receipts from other principal subject to depletion as provided in section 10 of this chapter.

(b) Principal is property, disposed of in trust, the income from which is payable to or to be accumulated for an income beneficiary and the title to which is either ultimately to vest in the remainderman or is to remain perpetually vested in the trustee. Principal includes but is not limited to:

- (1) consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as refund or replacement or change in the form of principal;
- (2) proceeds of property taken in eminent domain proceedings;
- (3) proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;
- (4) stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in section 4 of this chapter;
- (5) receipts from the disposition of corporate securities as provided in section 5 of this chapter;
- (6) royalties and other receipts from disposition of natural resources as provided in sections 8 and 9 of this chapter;
- (7) receipts from other principal subject to depletion as provided in section 10 of this chapter; and
- (8) any allowances for depreciation established under sections 6, 7, and 11 of this chapter.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by Acts 1977, P.L.2, SEC.81; P.L.132-1992, SEC.2; P.L.138-1994, SEC.2.*

### **IC 30-4-5-2b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-3a**

#### **When right to income arises; apportionment of income**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 3. (When Right to Income Arises; Apportionment of Income)

(a) An income beneficiary is entitled to income from the date specified in the terms of the trust or, if none is specified, the date an asset is delivered to the trustee. Receipts earned or accrued in whole or in part but not received before the date on which the asset is delivered to the trustee are income.

(b) The character attributed to income received during the administration of a decedent's estate shall be the same in the hands of the trustee as it is in the hands of the executor under the applicable probate law.

(c) When an income interest is terminated, the income beneficiary whose interest is terminated, or his estate, is entitled to:

- (1) income undistributed on the date of termination;
- (2) income due but not paid to the trustee on the date of termination;
- (3) income in the form of periodic payments (other than corporate distributions to stockholders), including but not limited to rent, interest, or annuities, not due on the date of termination, accrued from day to day.

(d) Corporate distributions to stockholders are to be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

**IC 30-4-5-3b**

**Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

**IC 30-4-5-4a**

**Corporate distribution**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 4. (Corporate Distribution)

(a) Except as provided in subsections (b), (c), (d), and (e) of this section, all cash dividends and all other distributions, including distributions of shares, securities, obligations, or rights to subscribe thereto of corporations other than the distributing corporations and the proceeds of the rights of property distributions are income.

(b) Corporate distributions of shares of the distributing corporation, including but not limited to, distributions in the form of a stock split or a stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

(c) A corporate distribution is principal, unless it is in settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, if the distribution is pursuant to:

- (1) a call of shares;

(2) a merger, consolidation, reorganization, or other plan by which the assets of the corporation are acquired by another corporation; or

(3) a total or partial liquidation of the corporation, or return of capital including any distribution characterized by the corporation as a total or partial liquidation, or return of capital.

(d) A distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets, is principal.

(e) Distribution made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under the federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

(f) Except as provided in subsections (c) and (e), if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

(g) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this chapter concerning the source or character of dividends or distributions of corporate assets.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by Acts 1982, P.L.171, SEC.119.*

#### **IC 30-4-5-4b**

##### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

#### **IC 30-4-5-5a**

##### **Bond premium and discount**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 5. (a) Except as provided in subsections (b) through (c), bonds or other obligations for the payment of money and the proceeds of sale, redemption, or other disposition thereof are principal. No provision may be made for the amortization of bond premiums or for accumulation for discount.

(b) Unless otherwise provided in this chapter or the trust instrument, an increase in the value of the following obligations over the value of the obligations at the time of acquisition by the trust is distributable as income:

(1) A zero coupon security.

(2) A deferred annuity contract surrendered wholly or partially before annuitization.

(3) A life insurance contract surrendered wholly or partially before the death of the insured.

(4) Any other obligation for the payment of money that is payable

at a future time in accordance with a fixed, variable, or discretionary schedule of appreciation in excess of the price at which it was issued.

(c) For the purposes of this section, the increase in value of an obligation defined in subsection (b) is available for distribution only when the trustee receives cash on account of the obligation. If the obligation is surrendered or liquidated partially, the cash available shall be attributed first to the increase. The increase is distributable to the income beneficiary who is the income beneficiary at the time the cash is received.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by P.L.138-1994, SEC.3; P.L.198-1996, SEC.2.*

### **IC 30-4-5-5b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-6a**

#### **Business operations**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 6. (Business Operations)

(a) If a trustee uses any part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits of the business, computed in accordance with generally accepted accounting principles for a comparable business, are income.

(b) If a loss results in any fiscal or calendar year, the loss falls on principal and may not be carried into any other fiscal or calendar year for purposes of calculating net income.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

### **IC 30-4-5-6b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-7a**

#### **Agricultural or farming operations**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 7. (Farming Operations)

(a) If a trustee uses any part of the principal in the continuance of an agricultural or farming operation, including but not limited to the raising of animals or the operation of a nursery, the net profits of the operation computed in accordance with generally accepted accounting principles for a comparable operation, are income.

(b) If the interest of the income beneficiary terminates before growing crops may be harvested, the income beneficiary or his estate

shall be entitled to the market value at the date of termination of his interest in the crops from the first principal cash available, or if no cash is available, when the value of the crops is realized by sale or other disposition. Whenever the unrealized value of the crops is distributed out of principal as income, the principal shall be reimbursed when the value is realized.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

### **IC 30-4-5-7b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-8a**

#### **Disposition of natural resources**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 8. (Disposition of Natural Resources)

(a) If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, delay rentals, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(1) If received as rent on a lease or extension payments on a lease, the receipts are income.

(2) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal all delay rentals and the fraction of the balance of the receipts which the unrecovered cost of the production payments bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income.

(3) If received as a royalty, overriding or limited royalty, or bonus, or from a working interest, net profit interest, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resources were being taken from the land at the time the trust was established. Twenty-seven and one-half percent (27-1/2%) of the gross receipts (but not to exceed fifty percent (50%) of the net receipts computed without allowance for depletion) shall be added to principal as an allowance for depletion. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.

(b) If a trustee, on September 2, 1971, held an item of depletable property of a type specified in this section he may allocate receipts from the property in the manner used before September 2, 1971, but as to all depletable property acquired after September 2, 1971, by an existing or new trust, the method of allocation provided herein shall be

used.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by Acts 1982, P.L.171, SEC.120.*

### **IC 30-4-5-8b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-9a**

#### **Timber**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 9. (Timber)

If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with 30-4-5-1(a)(3).

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

### **IC 30-4-5-9b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-10a**

#### **Other property subject to depletion**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 10. (Other Property Subject to Depletion)

Except as provided in 30-4-5-8 and 30-4-5-9, receipts from property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, are income to the extent of the applicable percentage of its inventory value. The balance is principal. The term applicable percentage means the greater of four percent (4%) or the re-discount rate as determined from time to time by the Federal Reserve Board.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

### **IC 30-4-5-10b**

#### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

### **IC 30-4-5-11a**

#### **Charges against income and principal**

*Note: This version of section effective until 1-1-2003. See also following repeal of this section, effective 1-1-2003.*

Sec. 11. (a) The following charges shall be made against income:

(1) Ordinary expenses incurred in the administration, management, or preservation of the trust property, including but not limited to regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs.

(2) A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance may be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on September 2, 1971, for which he is not then making an allowance for depreciation.

(3) Fifty percent (50%) of court costs, attorney's fees, and other fees on periodic judicial accounting, unless the court directs otherwise.

(4) Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest unless the court directs otherwise.

(5) Fifty percent (50%) of the trustee's regular compensation and fifty percent (50%) of the fee of an agent of the trustee charged in lieu of all or part of the trustee's regular compensation, whether based on a percentage of principal or income, and all expenses reasonably incurred by him for current management of principal and application of income.

(6) Any tax levied upon receipts defined as income under this article or the trust instrument and payable by the trustee.

(b) If charges against income are of unusual amount, the trustee may, by means of reserves or other reasonable means, charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

(c) The following charges shall be made against principal:

(1) Compensation of the trustee and an agent of the trustee not chargeable to income under subsection (a)(4) and (a)(5), special compensation of the trustee and an agent of the trustee, expenses reasonably incurred in connection with principal, the court costs and attorney's fees primarily concerning matters of principal, and the compensation of the trustee and an agent of the trustee computed on the principal as an acceptance, distribution, or termination fee. However, if in the judgment of the trustee the charging of all or part of the compensation to the principal is impracticable because of the lack of sufficient principal cash and readily marketable intangible personal property or inadvisable because of the nature of the assets, all or part of the compensation may be paid out of income. The decision of the trustee to pay a larger portion or all of the compensation out of income is conclusive, and the income of the trust is not entitled to reimbursement from the principal at any subsequent time.

(2) Charges not provided for in subsection (a), including the cost of investing and reinvesting principal, the payments on principal

of an indebtedness (including a mortgage amortized by periodic payments or principal), expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property.

(3) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subsection (a)(2) of this section and by sections 6 and 7 of this chapter.

(4) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding characterization of the tax as an income tax by the taxing authority.

(5) If an estate or inheritance tax is levied in respect to a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.

(d) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under section 3 of this chapter.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by Acts 1982, P.L.171, SEC.121; P.L.138-1994, SEC.4.*

## **IC 30-4-5-11b**

### **Repealed**

*(Repealed by P.L.84-2002, SEC.11.)*

*Note: This repeal of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

## **IC 30-4-5-12**

### **Accounting by trustees**

Sec. 12. (Accounting by Trustees)

(a) Unless the terms of the trust provide otherwise or unless waived in writing by an adult, competent beneficiary, the trustee shall deliver a written statement of accounts to each income beneficiary or his personal representative annually. The statement shall contain at least:

- (1) all receipts and disbursements since the last statement; and
- (2) all items of trust property held by the trustee on the date of the statement at their inventory value.

(b) This subsection applies to a charitable trust with assets of at least five hundred thousand dollars (\$500,000). The trustee of a charitable trust shall annually file a verified written certification with the attorney general stating that a written statement of accounts has been prepared showing at least the items listed in section 13(a) of this chapter. The certification must state that the statement of accounts is available to the attorney general and any member of the general public upon request. A charitable trust may not be exempted from this requirement by a provision in a will, trust agreement, indenture, or other governing instrument. This subsection does not prevent a trustee from docketing

a charitable trust to finalize a written statement of account or any other lawful purpose in the manner provided in this article. However, this subsection does not apply to an organization that is not required to file a federal information return under Section 6033(a)(2)(A)(i) or Section 6033(a)(2)(A)(ii) of the Internal Revenue Code.

(c) Upon petition by the settlor, a beneficiary or his personal representative, a person designated by the settlor to have advisory or supervisory powers over the trust, or any other person having an interest in the administration or the benefits of the trust, including the attorney general in the case of a trust for a benevolent public purpose, the court may direct the trustee to file a verified written statement of accounts showing the items listed in section 13(a) of this chapter. The petition may be filed at any time, provided, however, that the court will not, in the absence of good cause shown, require the trustee to file a statement more than once a year.

(d) If the court's jurisdiction is of a continuing nature as provided in IC 30-4-6-2, the trustee shall file a verified written statement of accounts containing the items shown in section 13(a) of this chapter with the court biennially, and the court may, on its own motion, require the trustee to file such a statement at any other time provided there is good cause for requiring a statement to be filed.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by P.L.41-2000, SEC.5.*

### **IC 30-4-5-13**

#### **Content of written statements of account filed with the court**

Sec. 13. (Content of Written Statements of Account Filed with the Court)

(a) A verified written statement of accounts filed with the court under 30-4-5-12 or by the trustee under 30-4-3-18(b) shall show:

- (1) the period covered by the account;
- (2) the total principal with which the trustee is chargeable according to the last preceding written statement of accounts or the original inventory if there is no preceding statement;
- (3) an itemized schedule of all principal cash and property received and disbursed, distributed, or otherwise disposed of during the period;
- (4) an itemized schedule of income received and disbursed, distributed, or otherwise disposed of during the period;
- (5) the balance of principal and income remaining at the close of the period, how invested, and both the inventory and current market values of all investments;
- (6) a statement that the trust has been administered according to its terms;
- (7) the names and addresses of all living beneficiaries and a statement identifying any beneficiary known to be under a legal disability;
- (8) a description of any possible unborn or unascertained beneficiary and his interest in the trust estate; and
- (9) the business addresses, if any, or the residence addresses of all the trustees.

(b) The court may, either on petition or on its own motion, require

the trustee to submit such proof as it deems necessary to support his verified written statement of accounts. The court may accept the unqualified certificate of a certified public accountant in lieu of other proof.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

#### **IC 30-4-5-14**

##### **Settlements; objections; hearing; surcharge**

Sec. 14. (Settlements; Objections; Hearing; Surcharge)

(a) With respect to the annual written statement required by 30-4-5-12(a), a beneficiary or his personal representative will be deemed to have discharged the trustee from liability as to that beneficiary for all matters disclosed in the statement if he approves in writing the trustee's statement.

(b) In a proceeding in which the court has been requested by petition to approve a verified written statement of accounts, any person authorized by 30-4-5-12(c) to petition for an accounting may file an appropriate responsive pleading, and if he does so, he must file it within the period of time after notice that a responsive pleading is required to be filed after service of a prior pleading under the Indiana Rules of Procedure.

(c) When a responsive pleading filed under subsection (b) of this section includes objections to any matter contained in the trustee's statement, those objections must be specific unless the court orders otherwise.

(d) Upon request for approval of a verified written statement of accounts and the filing of objections, if any, the court shall determine the correctness of the statement and the validity and propriety of all actions of the trustee described in the statement and may take any additional action that it deems necessary.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

#### **IC 30-4-5-15**

##### **Judgment; fees**

Sec. 15. (Judgment; Fees)

(a) Subject to the right of appeal, a judgment rendered by the court under 30-4-5-14, either approving the statement or disapproving it and surcharging the trustee, is final, conclusive and binding upon all the parties to the action who are subject to the jurisdiction of the court.

(b) Entry of the judgment by the court finally disposes of the matter and the clerk may not tax or charge a service fee for any year beyond that in which the judgment is rendered.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

#### **IC 30-4-5-16**

##### **Right to compensation**

Sec. 16. (Right to Compensation)

Unless the terms of the trust provide otherwise, and except as provided in 30-4-5-17, the trustee is entitled to reasonable compensation from the trust estate for acting as trustee.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

### **IC 30-4-5-17**

#### **Compensation if trustee breaches trust**

Sec. 17. (Compensation if Trustee Breaches Trust)

(a) In a proceeding in which the trustee is found to be in breach of trust, the court may in its discretion either deny him all compensation, allow him a reduced compensation, or allow him full compensation.

(b) In the exercise of its discretion under subsection (a) of this section, the court may consider, among others, the following facts:

(1) whether the breach of trust was intentional, negligent, or without fault;

(2) whether or not the trustee acted in good faith;

(3) whether or not the breach of trust resulted in a loss to the trust estate;

(4) if a loss results, whether the trustee has indemnified the trust estate; and

(5) whether the trustee's services were of value to the trust estate.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

### **IC 30-4-5-18**

#### **Private foundations**

Sec. 18. Subject to section 20 of this chapter, every corporation which is organized under the laws of this state and which is a private foundation as defined in Section 509(a) of the Internal Revenue Code shall, unless otherwise provided in the articles of incorporation of such corporation:

(a) distribute each taxable year amounts sufficient for such corporation to avoid liability for the tax imposed by Section 4942 of the Internal Revenue Code;

(b) not engage in any act of self-dealing (as defined in Section 4941(d) of the Internal Revenue Code) which would subject such corporation to liability for the taxes imposed by Section 4941 of the Internal Revenue Code;

(c) not retain any excess business holding (as defined in Section 4943(c) of the Internal Revenue Code) which would subject such corporation to liability for the taxes imposed by Section 4943 of the Internal Revenue Code;

(d) not make any investment which would jeopardize the carrying out of any of such corporation's exempt purposes (within the meaning of Section 4944 of the Internal Revenue Code) and which would subject such corporation to liability for the taxes imposed by Section 4944 of the Internal Revenue Code; and

(e) not make any taxable expenditure (as defined in Section 4945(d) of the Internal Revenue Code) which would subject such corporation to liability for the taxes imposed by Section 4945 of the Internal Revenue Code.

*(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by P.L.2-1987, SEC.47.*

### **IC 30-4-5-19**

#### **Private corporate foundations organized before January 1, 1970; application of IC 30-4-5-18**

Sec. 19. The provisions of 30-4-5-18 shall not apply to any such corporation organized before January 1, 1970, to the extent that a court of competent jurisdiction shall determine that application of such section to such corporation would be contrary to the terms of any instrument which may not be changed to conform to such section and by which such corporation is bound.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

#### **IC 30-4-5-20**

##### **Private corporate foundations; effective dates of IC 30-4-5-18**

Sec. 20. The provisions of 30-4-5-18 shall be effective as to corporations to which such section applies in accordance with the following subsections (a) and (b):

(a) With respect to each such corporation organized on or after January 1, 1970, the provisions of 30-4-5-18 shall be effective from and after the date of such corporation's organization.

(b) With respect to each such corporation organized before January 1, 1970, the provisions of 30-4-5-18 shall be effective during taxable years commencing after December 31, 1971.

*(Formerly: Acts 1971, P.L.416, SEC.6.)*

#### **IC 30-4-5-21**

##### **Trusts for benevolent public purpose; general rules**

Sec. 21. Subject to the provisions of this section and of section 23 of this chapter, every trust for a benevolent public purpose that is subject to the provisions of Subchapter A of Chapter 42 of Subtitle D of the Internal Revenue Code shall:

(1) distribute each taxable year amounts sufficient for such trust to avoid liability for the tax imposed by Section 4942 of the Internal Revenue Code, except that this subdivision shall not apply to split-interest trusts;

(2) not engage in any act of self-dealing (as defined in Section 4941(d) of the Internal Revenue Code) which would subject such trust to liability for the taxes imposed by Section 4941 of the Internal Revenue Code;

(3) not retain any excess business holding (as defined in Section 4943(c) of the Internal Revenue Code) which would subject such trust to liability for the taxes imposed by Section 4943 of the Internal Revenue Code;

(4) not make any investment which would jeopardize the carrying out of any of such trust's exempt purposes (within the meaning of Section 4944 of the Internal Revenue Code) and which would subject such trust to liability for the taxes imposed by Section 4944 of the Internal Revenue Code; and

(5) not make any taxable expenditure (as defined in Section 4945(d) of the Internal Revenue Code) which would subject such trust to liability for the taxes imposed by Section 4945 of the Internal Revenue Code.

The provisions of this section shall not apply to split-interest trusts or amounts thereof to the extent that such split-interest trusts and amounts are not, under Section 4947 of the Internal Revenue Code, subject to

the prohibitions applicable to private foundations.  
(Formerly: Acts 1971, P.L.416, SEC.6.) As amended by P.L.2-1987, SEC.48; P.L.41-2000, SEC.6.

#### **IC 30-4-5-22**

##### **Private and charitable trust foundations; split-interest trusts; creation before January 1, 1970; application of IC 30-4-5-21**

Sec. 22. The provisions of 30-4-5-21 shall not apply to any such trust created before January 1, 1970, to the extent that a court of competent jurisdiction shall determine that application of such section to such trust would be contrary to the terms of any instrument which may not be changed to conform to such section and by which such trust is bound.

(Formerly: Acts 1971, P.L.416, SEC.6.)

#### **IC 30-4-5-23**

##### **Private and charitable trust foundations; split-interest trusts; effective date of IC 30-4-5-21**

Sec. 23. The provisions of 30-4-5-21 shall be effective as to trusts to which such section applies in accordance with the following subsections (a) and (b):

(a) With respect to each such trust first existing on or after January 1, 1970, the provisions of 30-4-5-21 shall be effective from and after the date such trust comes into existence.

(b) With respect to each such trust existing before January 1, 1970, the provisions of 30-4-5-21 shall be effective during taxable years commencing after December 31, 1971.

(Formerly: Acts 1971, P.L.416, SEC.6.)

#### **IC 30-4-5-24**

##### **Repealed**

(Repealed by P.L.2-1987, SEC.53.)